



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Steven W. Michelsen, D.O.

Respondent Name

Pacific Indemnity Company

MFDR Tracking Number

M4-16-0323-01

Carrier's Austin Representative

Box Number 17

MFDR Date Received

October 5, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per fee and CMS guidelines, PT services may be billed as 'Incident to' charges under the physician's name, NPI and tax id# since our physical therapists are employees of a physician-owned practice. Our physician provides direct supervision to our therapists by physically being present in the office suite in which the physical therapy is rendered and available to personally assist the PT if necessary. The physician need not, however, be in the same room as the patient and PT."

Amount in Dispute: \$1250.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "... the HCP readily admits that the services were indeed performed by a licensed physical therapist. As such, Texas Workers' Compensation rules supersede those of CMS..."

Furthermore, the rendering physical therapist signed the notes on each day as additional proof that they performed the service. Ashis Patel is licensed by the *Executive Council of Physical Therapy and Occupational Therapy Examiners* (ECPTPE)."

Response Submitted by: CorVel

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 11 – April 27, 2015	Physical Therapy	\$1250.00	\$114.27

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out the procedures for submitting a medical bill.

3. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - B20 – Service partially/fully furnished by another provider.

Issues

1. Is the insurance carrier's reason for denial of payment supported?
2. What is the maximum allowable reimbursement (MAR) for the disputed services.
3. Is the requestor entitled to additional reimbursement?

Findings

1. The insurance carrier denied disputed services with claim adjustment reason code B20 – "Srvc partially/fully furnished by another provider." The requestor argues in their position statement that, "Per fee and CMS guidelines, PT services may be billed as 'Incident to' charges under the physicians name..."

28 Texas Administrative Code §134.203 (a)(7) states, in relevant part,

Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program.

28 Texas Administrative Code §133.20 (d) states,

The health care provider that provided the health care **shall submit its own bill** [emphasis added], unless:

- (1) the health care was provided as part of a return to work rehabilitation program in accordance with the Division fee guidelines in effect for the dates of service;
- (2) the health care was provided by an **unlicensed** [emphasis added] individual under the direct supervision of a licensed health care provider, in which case the supervising health care provider shall submit the bill;
- (3) the health care provider contracts with an agent for purposes of medical bill processing, in which case the health care provider agent may submit the bill; or
- (4) the health care provider is a pharmacy that has contracted with a pharmacy processing agent for purposes of medical bill processing, in which case the pharmacy processing agent may submit the bill.

Date of service March 11, 2015: Review of the submitted information finds that Steven W. Michelsen, D.O. is documented as the provider. No other health care providers are included on the submitted documentation for this date of service. The CMS-1500 medical bill indicates that the rendering provider was Steven W. Michelsen, D.O., NPI #1104872449. The insurance carrier's denial for this date of service is not supported. As a result, this date of service will be reviewed per applicable Division rules and fee guidelines.

Dates of service April 9, 13, 23, and 27, 2015: Review of the submitted information finds that the documentation for these dates of service was electronically signed by Ashis Patel as rendering provider. Ashis Patel is licensed as a physical therapist, license #1143782. Therefore, in accordance with 28 Texas Administrative Code §133.20 (d), the medical bill was required to be submitted by Ashis Patel as rendering provider. The CMS-1500 medical bill indicates that the rendering provider was Steven W. Michelsen, D.O., NPI #1104872449. The insurance carrier's denial reason for these dates of service is supported. Additional reimbursement cannot be recommended for these dates of service.

2. 28 Texas Administrative Code §134.203 (c) states,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83...

- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. The Division conversion factor for 2015 is \$56.20.

For CPT code 97001 on March 11, 2015, the relative value (RVU) for work of 1.20 multiplied by the geographic practice cost index (GPCI) for work of 1.000 is 1.200000. The practice expense (PE) RVU of 0.87 multiplied by the PE GPCI of 0.920 is 0.800400. The malpractice (MP) RVU of 0.04 multiplied by the MP GPCI of 0.822 is 0.032880. The sum of 2.033280 is multiplied by the Division conversion factor of \$56.20 for a MAR of \$114.27.

3. The total MAR of the disputed services is \$114.27. The insurance carrier paid \$0.00. A reimbursement of \$114.27 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$114.27.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$114.27 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	_____
Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	November 17, 2015 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.